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Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



Mac Warner

Secretary of State
State of West Virginia
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9214 8901 1251 3410 0002 6960 13

SMITH LAND SURVEYING, INC.
GREGORY A. SMITH
PO BOX 150
GLENNVILLE, WV 26351

Control Number: 256379

Defendant: SMITH LAND SURVEYING, INC.
PO BOX 150
GLENNVILLE, WV 26351 US

Agent: GREGORY A. SMITH

County: Gilmer

Civil Action: 20-C-7

Certified Number: 92148901125134100002696013

Service Date: 3/27/2020

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your corporation.

*Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your corporation as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, **not to the Secretary of State's office.***

Sincerely,

Mac Warner

Mac Warner
Secretary of State

Exhibit A

IN THE CIRCUIT OF GILMER WEST VIRGINIA
JOSEPH LOUDIN v. SMITH LAND SURVEYING INC.

Service Type: Secretary of State - Certified - Including Copy Fee

NOTICE TO: SMITH LAND SURVEYING INC., c/o Gregory A. Smith, PO Box 150, Glenville, WV 26351

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Jason Wingfield, 1714 Mileground, Morgantown, WV 26505

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

3/24/2020 4:06:57 PM

Date

/s/ Pam Starsick

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____☐ I certify that I personally delivered a copy of the Summons and Complaint to _____☐ Not Found in Bailiwick_____
Date_____
Server's SignatureACCEPTED FOR
SERVICE OF PROCESS
MAR 27 P 1:37
CLERK OF COURT
STATE OF WEST VIRGINIA

GENERAL INFORMATION

IN THE CIRCUIT COURT OF GILMER COUNTY WEST VIRGINIA
JOSEPH LOUDIN v. SMITH LAND SURVEYING INC.

First Plaintiff:

☐ Business ☒ Individual
☐ Government ☐ Other

First Defendant:

☒ Business ☐ Individual
☐ Government ☐ Other

Judge:

Jack Alsop

COMPLAINT INFORMATION

Case Type: Civil

Complaint Type: Other

Origin:

☒ Initial Filing ☐ Appeal from Municipal Court ☐ Appeal from Magistrate Court

Jury Trial Requested:

☒ Yes ☐ No

Case will be ready for trial by: 3/15/2021

Mediation Requested:

☐ Yes ☒ No

Substantial Hardship Requested:

☐ Yes ☒ No☐ Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- ☐ Wheelchair accessible hearing room and other facilities
- ☐ Interpreter or other auxiliary aid for the hearing impaired
- ☐ Reader or other auxiliary aid for the visually impaired
- ☐ Spokesperson or other auxiliary aid for the speech impaired
- ☐ Other: _____

☐ I am proceeding without an attorney☒ I have an attorney: Jason Wingfield, 1714 Mileground, Morgantown, WV 26505

SERVED PARTIES

Name: SMITH LAND SURVEYING INC.

Address: c/o Gregory A. Smith PO Box 150, Glenville WV 26351

Days to Answer: 30

Type of Service: Secretary of State - Certified - Including Copy Fee

IN THE CIRCUIT COURT OF GILMER COUNTY, WEST VIRGINIA

**JOSEPH LOUDIN,
GLOBAL DRONE SURVEYING AND
INSPECTIONS, LLC,
a West Virginia Limited Liability Company, and
JOHN DOE**

Plaintiffs,

v.

Civil Action No. _____

SMITH LAND SURVEYING, INC.,

Defendant.

COMPLAINT

The Plaintiffs, Joseph Loudin ("Loudin"), Global Drone Surveying and Inspections, LLC and John Doe, by and through counsel, and bring the following causes of action against Defendant Smith Land Surveying, Inc. ("Defendant").

PARTIES

1. Plaintiff Joseph Loudin is a resident of Buckhannon, West Virginia.
2. Plaintiff Global Drone Surveying and Inspections, LLC is a limited liability company organized under the laws of West Virginia with a principal office location in Buckhannon, West Virginia.
3. Plaintiff John Doe is an unknown person or persons who, upon information and belief, is/are similarly situated to Joe Loudin and is/are a resident(s) of West Virginia.
4. Smith Land Surveying, Inc. is a domestic corporation with a principal office location in Glenville, West Virginia.

JURISDICTION AND VENUE

5. Based on the facts stated above and herein, and the statutory and case law of West Virginia, the Circuit Court of Gilmer County has jurisdiction over the causes and claims asserted in this Complaint.

6. Venue is proper in this Court.

BACKGROUND

7. This is an individual and Collective Action Complaint brought to obtain declaratory, injunctive, and monetary relief on behalf of the named Plaintiff and those similarly situated who operate(d) as employees of Smith Land Surveying, Inc. as "exempt" employees.

8. From 2018 to December 2019, Plaintiff Joe Loudin was employed by the Defendant.

9. In 2019, and perhaps earlier, Plaintiff John Doe was employed by the Defendant.

10. Smith Land Surveying, Inc. unilaterally reduced employees' accrued paid time off to compensate for hours worked under an arbitrary minimum number per week.

11. Smith Land Surveying, Inc. failed to pay overtime pay for hours worked in excess of 40 hours per week.

12. Joe Loudin, the named plaintiff, alleges violations of the Federal Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§201, et seq., and seeks permanent injunctive relief, back wages, liquidated damages, and other damages for himself and those similarly situated, identified herein as John Doe.

10. The FLSA collective group consists of all individuals who operate(d) as drone pilots and/or project managers for Smith Land Surveying, Inc., and are or were misclassified as "exempt" employees, working for Smith Land Surveying, Inc., at any time during the applicable limitations period. The Named Plaintiff, during applicable time periods is and/or was a member of this collective group and also brings individual claims as such. This action challenges both the classification of employees as "exempt" and Defendant's denial to the named Plaintiff and those similarly situated of the rights, obligations, privileges, and benefits owed to them as employees under the FLSA.

On 2018, Loudin entered into 2 contracts with Smith Land Surveying.

11. In December 2018, Loudin entered into 2 contracts with Smith Land Surveying. The first was entered into by Loudin as member of Global Drone Surveying and Inspection, LLC and was a purchase agreement. The second was entered into individually and was a contract for employment.

12. Defendant classified Loudin and Doe as "exempt" during portions of their employment with Defendant.

13. During their time as employees of Defendant, Plaintiffs regularly worked in excess of forty (40) hours per work week without overtime compensation.

**COUNT I
FLSA VIOLATION**

14. Loudin and John Doe incorporate by reference, as if pleaded herein, all paragraphs in this Complaint into Count I.

15. Defendant employed Loudin and John Doe as employees as noted above.

16. Loudin and John Doe were entitled to the protections of the Fair Labor Standards Act.

17. No exemptions were applicable to Loudin and John Doe during their employment with Defendant.

18. During their employment with Defendant and all times material herein, Loudin and John Doe regularly worked more than 40 hours per week but did not receive overtime pay for such hours in excess of 40 within weekly pay periods.

19. Defendant acted willfully in that it knowingly, deliberately, and intentionally failed to pay overtime premiums to Loudin and John Doe and without a good faith basis.

20. Accordingly, Loudin and John Doe are entitled to all unpaid overtime wages under the FLSA, plus liquidated damages, attorney's fees, costs and the expenses of this action.

21. Defendant also routinely and unilaterally liquidated accrued paid time off to compensate for fewer than an arbitrary minimum number of hours worked per pay period without providing notice to the employees.

COUNT II BREACH OF CONTRACT

22. Joseph Loudin and Global Drone Surveying and Inspection, LLC incorporate by reference, as if pleaded herein, all paragraphs in this Complaint into Count III.

23. Joseph Loudin, Global Drone Surveying and Inspection, LLC and Smith Land Surveying, Inc. entered into a purchase agreement whereby Smith Land Surveying, Inc. would purchase a drone piloting business in exchange for monetary compensation.

24. Part of the consideration contemplated by the parties was "Additional Goodwill Payments." These quarterly payments were to be calculated based on gross labor. Not only did Smith Land Surveying, Inc. immediately disrupt the financial

arrangements with existing clientele, it denied Joseph Loudin and Global Drone Surveying and Inspection, LLC access to financial information that was necessary to determine the value of the goodwill payments due.

25. The proper amount of goodwill payment is unknown and unpaid.

26. Despite providing the consideration contemplated and assented to by the parties, Joseph Loudin and Global Drone Surveying and Inspection, LLC have not realized the performance they were due from Smith Land Surveying, Inc..

27. Smith Land Surveying, Inc.'s failure to perform constitutes a breach of the Asset Purchase Agreement.

28. Joseph Loudin and Global Drone Surveying and Inspection, LLC have been damaged by Smith Land Surveying, Inc.'s failure to perform.

29. All conditions precedent were met by Joseph Loudin and Global Drone Surveying and Inspection, LLC.

COUNT III FRAUD IN THE INDUCEMENT

30. Joseph Loudin and Global Drone Surveying and Inspection, LLC incorporate by reference, as if pleaded herein, all paragraphs in this Complaint into Count III.

31. Joseph Loudin and Global Drone Surveying and Inspection, LLC entered into one or more agreements wherein Plaintiffs would provide services to Defendant as a drone pilot and project manager.

32. Smith Land Surveying, Inc. made multiple fraudulent statements to induce Joseph Loudin and Global Drone Surveying and Inspection, LLC to come to such an agreement.

33. Those statements include, for example, assurances that compensation would be paid.

34. Those fraudulent statements were material to Joseph Loudin and Global Drone Surveying and Inspection, LLC's decision to enter into any of these alleged agreements.

35. Joseph Loudin and Global Drone Surveying and Inspection, LLC reasonably and justifiably relied upon those fraudulent statements when entering into any such agreement with Defendant.

36. Smith Land Surveying, Inc. willfully, wantonly, and recklessly misled and/or concealed from Joseph Loudin and Global Drone Surveying and Inspection, LLC that such an arrangement would not be honored and that the purpose of the statements were designed to gain ownership over the asset and to lock Loudin into a covenant not to compete.

37. Smith Land Surveying, Inc. willfully, wantonly, and recklessly misled and/or concealed from Joseph Loudin and Global Drone Surveying and Inspection, LLC that such an arrangement with would result in their receiving less than their due compensation for their work with Smith Land Surveying, Inc..

38. Joseph Loudin and Global Drone Surveying and Inspection, LLC have suffered damages and losses because of Smith Land Surveying, Inc.'s fraudulent statements.

COUNT IV CONVERSION

39. Joseph Loudin and John Doe incorporate by reference, as if pleaded herein, all paragraphs in this Complaint into Count IV.

40. Joseph Loudin and John Doe were employees of Defendant.

41. As employees of Smith Land Surveying, Inc., Joseph Loudin and John Doe were entitled to certain compensation and benefits in accordance with contracts and state and federal law.

42. Those benefits include receiving a proper wage statement, employer contributions to retirement plans and/or social security, employer payroll taxes, paid time off and the like.

43. Joseph Loudin and John Doe were entitled to such compensation and benefits under federal and state law.

44. Smith Land Surveying, Inc. also misstated the number of hours worked by Joseph Loudin and John Doe.

45. Because of Smith Land Surveying, Inc.'s negligent application of its compensation procedures, Joseph Loudin and John Doe did not receive the full compensation due to them.

46. Smith Land Surveying, Inc. improperly retained at least a portion of the full compensation due to Joseph Loudin and John Doe.

47. Joseph Loudin and John Doe had a right to possess said compensation and benefits.

48. Smith Land Surveying, Inc. interfered with Joseph Loudin and John Doe's rights with regards to said compensation and benefits.

49. Smith Land Surveying, Inc.'s wrongful acts were inconsistent with Joseph Loudin and John Doe's rights to said compensation and benefits.

50. Joseph Loudin and John Doe have suffered damages because of Smith Land Surveying, Inc.'s actions.

**COUNT V
WRONGFUL TERMINATION**

51. Joseph Loudin incorporates by reference, as if pleaded herein, all paragraphs in this Complaint into Count V.

52. Because of Smith Land Surveying, Inc.'s various negligence, Loudin attempted to resolve the erroneous deductions and retentions. Loudin also requested documentation to support the goodwill payments.

53. As a result of Loudin's attempt to resolve the erroneous deductions and retentions, Smith Land Surveying, Inc. drastically changed his duties and workplace location.

54. This change in duties and workplace location caused Loudin to fear his supervisors and employer and created a hostile environment.

55. Due to the hostile environment created by Smith Land Surveying, Inc., Loudin continued to work from home as had been regularly accepted prior to his attempt to resolve the erroneous deductions and retentions.

56. As pretext for its intent to terminate Loudin, Smith Land Surveying, Inc. provided Loudin with a written reprimand citing Loudin's alleged failure to report to work, despite having actual knowledge that he worked on the day in question and was paid for that work.

57. Smith Land Surveying, Inc. terminated Loudin's employment on December 23, 2019.

58. Loudin's termination was a breach of an employment contract.

59. Loudin's termination was in retaliation for demanding Smith Land Surveying, Inc. to correct the erroneous deductions and retentions.

60. Loudin's termination was against public policy in that the purpose of terminating him was because he asserted his legal rights as to pay and compensation.

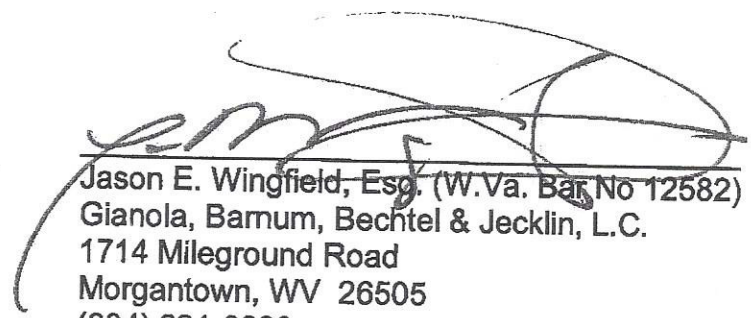
WHEREFORE, Plaintiffs demands the following:

- a. judgment against Defendant in favor of Plaintiffs for all damages, plus interest as allowed by law;
- b. an Order pursuant to Section 16(b) of the FLSA finding Defendant liable for unpaid back wages due to Plaintiffs, for liquidated damages equal in amount to the unpaid wages found due to Plaintiffs, attorney fees, costs, and pre-judgment and post-judgment at the highest rates allowed by law;
- c. Plaintiffs be awarded their attorneys' fees in this action;
- d. Plaintiffs be awarded all costs of this action; and
- e. any further relief which appears just and proper.

JURY TRIAL DEMANDED

PLAINTIFFS, BY AND THROUGH COUNSEL,

March 10, 2020

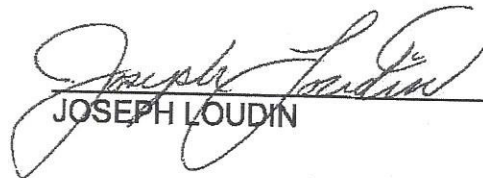


Jason E. Wingfield, Esq. (W.Va. Bar No 12582)
Gianola, Barnum, Bechtel & Jecklin, L.C.
1714 Mileground Road
Morgantown, WV 26505
(304) 291-6300
jwingfield@gbbjlaw.com

VERIFICATION

STATE OF WEST VIRGINIA,
COUNTY OF Putnam, TO-WIT:

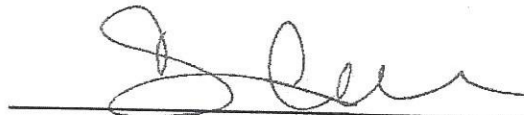
I, JOSEPH LOUDIN, swear that the facts and allegations contained in the
Complaint are true and correct to the best of my knowledge.


JOSEPH LOUDIN

The foregoing instrument was acknowledged before me this 11, day of
March, 2020, by JOSEPH LOUDIN.

My commission expires: October 15, 2023

{SEAL}


NOTARY PUBLIC

